MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2019/2020

ULT 2612 – LAW OF TORTS I

(All sections / Groups)

14 OCTOBER 2019
Reading Time: 2.30 p.m. – 2.45 p.m.
(15 Minutes)
Answering Time: 2.45 p.m. – 5.45 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENTS

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 4 questions only.

3. Attempt ALL questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Please write all your answers in the Answer Booklet provided.

ANSWER ALL QUESTIONS

QUESTION 1

Hanan owns a large bungalow and the adjoining estate in the middle of Kuala Lumpur.

Her neighbour, Nawal, is in the process of building a huge cage for her collection of Persian cats. The builders arrive and unload the bricks for the construction. They have unloaded some of the bricks past the property line, onto Hanan's property. This is a distant corner of the estate which Hanan rarely ventures over to.

It emerges that Hanan's considerable fortune comes from the proceeds of an international drugs smuggling ring. After a protracted police investigation, the police arrive to search his property and arrest Hanan. Three police officers arrive and begin to search the house with a valid warrant.

Hanan is kept in the dining room of his house, and despite telling the police officers to get out, they refused to leave. Officer A and Officer B were in the process of searching his house when they come across an ornate vase. Officer A picks up the vase to search for drugs. After he has finished searching, he decides to prank Officer B. He throws the vase to him and yells 'catch!' Officer B does not catch the vase which falls to the ground and shatters.

Hanan heard the smashing vase and went to see the commotion. The guarding officer, Officer C stops him from leaving the dining room. Hanan asked Officer C to move but he refuses. Hanan then asked why he was not allowed to leave the dining room, however Officer C stays silent.

Hanan is arrested an hour later. During the process of arrest, despite Hanan standing still and being extremely calm, Officer A shouts to him, 'stop resisting!' Officer A then kicks Hanan at the back of his knee, leaving him with a bruise.

Hanan wishes to bring a claim against the police officers for trespass onto his property (on the basis that he did not give permission for them to enter), for breaking the vase, for false imprisonment in his dining room and for kicking him at the back of his knee. He also wants to bring a claim against Nawal for dumping the bricks onto his property.

Advise Hanan accordingly.

(Total: 25 marks)

ANSWER EITHER QUESTION 2(A) OR 2(B)

QUESTION 2A

Micheal and Schumacer are participating in a charity car race.

Michael just passed his driving test last week. During the charity car race, he fails to realise that he has put in the wrong gear at the starting line. As a result, he accidentally reverses his car, crushing the foot of a spectator standing behind him.

Continued...

In contrast, Schumacer is a relatively competent driver. However, unbeknown to Schumacer he has an undiagnosed case of narcolepsy and is prone to under-going 'micro-sleeps' (moments when Schumacer temporarily blacks out and reawakens a second or two later.) During the race, Schumacer suddenly falls into a micro-sleep before he reached the finishing line. When he re-awakes, he finds that he has crashed into the podium, utterly destroying it.

Both drivers have cases brought against them.

Critically assess the possible legal actions to be taken upon the drivers with regards to their standard of care applied to the defendants at trial.

(Total: 25 marks)

~~~~OR~~~~

QUESTION 2B

Finn was driving his car diligently on the left side of the road before he was hit by a lorry behind him driven by a drunken driver, Jack. Finn immediately died at the scene of the accident. The accident was covered by TVZ news in the afternoon of the same day. Amy, Finn's girlfriend who was pregnant with Finn's child claimed that she suffered nervous shock and later miscarriage when she saw Finn's car and his plate number in the news. She only managed to see Finn's body at the mortuary 8 hours after the accident since she was hospitalized.

Meanwhile, Maisie, Finn's mother arrived at the hospital 2 hours after the accident and saw Finn's badly deformed dead body. Maisie suffered a mental disorder as Finn was her only child.

Tam, Finn's best friend was told of the accident by Finn's mother and he could not work ever since.

Advise Amy, Maisie and Tam whether they may sue Jack for psychiatric illness.

(Total: 25 marks)

QUESTION 3

a) In the case of *Mersey Docks and Harbour Board v Procter* [1923] AC 253 at 272, Lord Summer quoted that;

"The leading distinction between an invitee and a licensee is that, in the case of the former, invitor and invitee have common interest, while, in the latter, licensor and licensee have none."

Based on the quotation above, describe the differences between an invitee and a licensee.
(15 marks)

Continued...

b) Discuss whether the duty of occupier towards trespassers as laid down in the case of *Robert Addie & Sons Ltd v Dumbreck* [1929] AC 358 HL is still relevant. Support your answers with decided cases.

(10 marks)

(Total: 25 marks)

QUESTION 4

Maria Josie is a famous actress in Malaysia with a huge fan base. Throughout the years, she had won numerous awards including Best Actress in various popular awards in Malaysia. After winning Best Actress for the third time, Maria Josie was offered to act in an Indonesian drama. It is said to be the most anticipated TV drama in Indonesia.

Marie Jo is an aspiring actress where she acted in several low budget movies. Due to stress of not getting enough jobs to support her life, Marie Jo hangs out in a pub regularly and indulge herself with drugs and alcohol. A young journalist, Yam from Gossip Daily Malaysia saw Marie Jo while she was high with drugs and decided to write an article about her. The next morning, Gossip Daily Malaysia published an article entitled,

"MJ, a Malaysian actress was found drunk and high on drugs in a small pub in Kuala Lumpur."

After the article was published, Maria Josie received backlash from the public. The producer from the Indonesian drama whom she was working with called her and decided to cancel the drama.

To make matters worse, a competitor of Maria Josie, Mandy decided to spice up the story and told Maria Josie's agency that Maria Josie is sleeping with her manager. Words have been circulating around the office.

Maria Josie came to see you to seek for legal advice. Advise Maria Josie.

(Total: 25 marks)

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